FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION No. 5347/2007
(Ram Siknna Aietwar Vs. M.S.E.T.C. & anr.)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Dr. Anjan De, Adv. for the petitioner.

CORAM :D.D. SINHA &
SMT. VASANTI A. NAIK, JJ.
DATED : NOVEMBER 28, 2007.

Heard Shri De for the petitioner.

The writ petition is directed against the communication dated 7/2/2007 issued by the officer of the respondent whereby the petitioner is informed that his representation came to be rejected.

The counsel for the petitioner states that the petitioner was working as an Assistant Machineman in the establishment of the respondent no.1. For the purpose of contesting election, the petitioner resigned from the post and contested the election, however, was unsuccessful. Therefore, he wanted to join his original duty. The petitioner, therefore, approached the respondents and made a request for taking him back on duty on the post which was held by him prior to his resignation. It is contended by the counsel for the

petitioner that the petitioner had earlier filed Writ Petition No. 2768/2006 which was disposed of by this Court vide order dated 3rd August, 2006, whereby the representation already submitted by the petitioner to the competent authority, was directed to be considered. The order impugned in the present writ petition is the order passed by the competent authority on the said representation of the petitioner. Since the representation is rejected, the petitioner has filed the present writ petition.

The counsel for the petitioner has contended that there is another employee of the respondent namely H.N. Rathod, who also had resigned from his post for the purpose of contesting election and after the election, since he failed to get elected, made a request to the respondents to take him back in the employment and was taken back by the respondents on the job which was one grade below and, therefore, the learned counsel for the petitioner has prayed that similar treatment ought to have been given by the respondent-Department to the petitioner also. However, the petitioner has been discriminated and, therefore, appropriate direction be given to the respondents in this regard.

We have considered the contentions canvassed by the learned counsel. The

contentions canvassed by the learned counsel for the petitioner that the action of the respondent in not granting re-employment is discriminatory and violative of Article 14 of the Constitution of India, in the facts and circumstances of the present case, is completely misconceived and devoid of substance. There is no procedure in law which gives right to the petitioner for re-employment nor there is any rule or statute which requires the respondent-Department to grant re-employment in such situation. Even if it is presumed for the sake of argument that the respondent-Department has given re-employment to a candidate who had no legal right, even then the doctrine of equality cannot be invoked by the petitioner for want of legal right, only on the basis of wrong decision taken by the respondent-Department in case of other candidate.

Petition suffers from merits, same is dismissed.

JUDGE **JUDGE**

RMP